

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MORGAN FULLER,

Plaintiff

v.

STATE OF NEVADA, et. al.,

Defendants

Case No. 2:20-cv-00018-JAD-VCF

**Order Dismissing
and Closing Case**

[ECF No. 1]

Plaintiff Morgan Fuller brings this civil-rights lawsuit to redress constitutional violations that he claims he suffered while incarcerated by the Nevada Department of Corrections. On September 30, 2020, this Court ordered Fuller to update his address by October 30, 2020.¹ That deadline expired without an updated address from the plaintiff, and his mail from this court is being returned as undeliverable.²

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action

¹ ECF No. 3.

² ECF No. 4.

³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 on one of these grounds, the court must consider: (1) the public’s interest in expeditious
2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
4 availability of less drastic alternatives.⁵

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the
6 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
9 ordered by the court or prosecuting an action.⁶ A court’s warning to a party that its failure to
10 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of
11 alternatives” requirement,⁷ and that warning was given here.⁸ The fourth factor—the public
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
13 favoring dismissal.

14 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
15 based on the plaintiff’s failure to file an updated address in compliance with this Court’s
16 September 30, 2020, order, and the application for leave to proceed in forma pauperis
17 **[ECF No. 1] is DENIED**. The Clerk of Court is directed to **ENTER JUDGMENT** accordingly
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21 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23 ⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁸ ECF Nos. 11, 13.

1 and **CLOSE THIS CASE**. Nothing else may be filed in this case. If Morgan Fuller wishes to
2 pursue his claims, he must file a complaint in a **new** case.

3 Dated: November 12, 2020

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6 U.S. District Judge Jennifer A. Dorsey
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